

Amendment to Claims

Agent for Applicant respectfully requests the following amendments to the claims without adding any new subject matter, namely:

1. [Thrice Amended]

A device for scaring birds comprising:

- (a) a silhouette of a bird of prey having at least two holes therethrough;
- (b) a first line having one end rotatably attached to one of said holes;
- (c) a second line having one end rotatably attached to said other hole;
- (d) a third line having:
- (i) one end rotatably attached to one of said holes and to said one end of said first line [for rotation of said third line relative said first line]; and
 - (ii) another end rotatably attached to said other hole and to said one end of said second line, [for rotation of said third line relative said second line] for rotation of said third line relative said first and second lines without tangling said lines relative said holes and

so as to maintain continuity between said one end of said first and second lines respectively when said first and second lines become unattached from said holes respectively.

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2. [As Filed] A device as claimed in claim 1 further including a swivel connected to said hole, said one end of said line connected to said swivel so as to permit said silhouette to rotate relative said line.

3. CANCELLED

4. CANCELLED

5. [Twice Amended] A device as claimed in claim 1 wherein said third line [extends across said silhouette] is selected to be substantially the length between said holes when connected to said holes.

6. [As Filed] A device as claimed in claim 5 wherein said silhouette comprises a vinyl panel having an outline of a bird of prey.

7. [As Filed] A device as claimed in claim 6 wherein said first line has another end adapted to be secured to an object above ground and said second line has another end adapted to be secured to the ground.

8. [As Filed] A device as claimed in claim 7 wherein said panel freely rotates about said first and second lines.

9. [As Filed] A device as claimed in claim 8 wherein said panel is colored and shiny and reflects light as said panel freely rotates about said line.

10. [As Filed] A device as claimed in claim 9 wherein said other end of said first line is adapted to be attached to the top of a building.

11. [Twice Amended] A device as claimed in claim 10 wherein said holes include[s] grommets for reinforcing said holes.

12. [As Filed]

A device as claimed in claim 11 further including:

- (a) a first swivel connected to said first grommet, said first line having one end connected to said first swivel;
- (b) a second swivel connected to said second grommet, said second line having an end connected to said second swivel;
- (c) said third line connected to said first and second swivels.

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13. [Thrice Amended]

A device for scaring birds comprising:

- (a) a thin vinyl sheet profiling a bird of prey, said sheet including first and second holes there through;
- (b) first and second grommets for reinforcing said first and second holes;
- (c) a first swivel connected to said first grommet, said first swivel including [first hole attaching means, and] first rotatable means having first hole attaching means at one end and first line attaching means at another end;
- (d) a second swivel connected to said second grommet, said second swivel including [second hole attaching means, and] second rotatable means having second hole attaching means at one end and second line attaching means at another end;
- (e) a first line having an end connected to said first line attaching means at said first rotatable means for rotatable movement [about said first hole attaching means] thereabouts;

- (f) a second line having an end connected to said second line attaching means at said second rotatable means for rotatable movement thereabout [about said second hole attaching means];
- (g) a safety line having one end connected to said first hole attaching means and another end connected to said second hole attaching means for rotation of said third line relative said first and second lines without tangling said lines relative said holes.

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14. [As Filed] A device as claimed in claim 13 wherein said first line has another end adapted to be attached to a building, and wherein said second line has another end adapted to be attached to the ground.

15. [As Filed] A device as claimed in claim 14 wherein said vinyl sheet is black and shiny and reflects light as said sheet rotates about said first and second lines so as to scare birds.

16. [As Filed] A device as claimed in claim 13 wherein said first line has another end adapted to be attached to a kite and wherein said second line has another end adapted to be attached to an object.

17. [As Filed] A device as claimed in claim 13 wherein said first line has another end adapted to an upright post, and wherein said second line has another end adapted to be attached to an upright post.

18. [Thrice Amended] A method of scaring birds comprising the steps of:

- (a) securing the silhouette of a bird of prey in position by:

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- (i) connecting one end of a [first swivel having a first clip and first] rotatable means [by connecting said first clip] to [said] a first hole;
 - (ii) connecting a first end of said first line to another end of said first rotatable means;
 - (iii) connecting one end of a [second swivel having a second clip and] second rotatable means [by connecting said second clip to said first hole] to a second hole;
 - (iv) connecting a first end of said second line to another end of said second rotatable means;
- (b) reinforcing said silhouette from breakage by connecting one end of a safety line across said silhouette to said [first clip] other end of said first rotatable means and another end of said safety line to said [second clip] other end of said second rotatable means;
 - (c) moving said silhouette by wind so as to scare said birds whereby said safety line rotates relative said first and second lines without tangling said lines relative said holes.

19. [As Filed] A method of scaring birds as claimed in claim 18 wherein another end of said first line is connected to the top of a building, and another end of said second line is connected to the ground, so as to scare birds away from a building.

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20. [As Filed] A method of scaring birds as claimed in claim 18 wherein another end of said first line is connected to a kite, and another end of said second line is connected to an object so as to scare birds away from a field.

21. [Amended] A method as claimed in claim 18 including the step of maintaining the continuity between said first end of said first line and said first end of said second line when said first and second [clips] lines become disconnected from said holes.

22. [Amended] A method as claimed in claim 18 wherein the length of said safety line is selected [connected] to [lie] be substantially the length between said holes when said safety line is connected to said holes [in the same plane as said silhouette].

[ADD THE FOLLOWING NEW CLAIM]

23. A device as claimed in claim 13 wherein said first, second and third lines comprise of a material selected from a group of nylon and braided dacron.

24. A device as claimed in claim 23 wherein said third line extends between said holes.

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Kindly note that the claims have been amended so as to focus on.

1. one end of the third line is attached to one of the holes **and to** one end of the first line and another end of the third line is attached to the other hole **and to** one end of the second line;
2. the third line rotates relative to the first and second lines without tangling the lines relative the holes;
3. the ends of the safety line are attached to the first and second hole attaching means respectively of the first and second rotatable means while the first and second line attaching means are at **another end** of the rotatable means;
4. the length of the safety line is selected to be substantially the length between the holes when the safety lines is connected to the holes.

35 U.S.C. § 103

Examiner stated that claims 1-2 and 5-10 were rejected as being unpatentable over Chase in view of Rehbein.

In this regard Agent for Applicant respectfully states that neither Chase nor Rehbein teach:

1. one end of the third line is attached to one of the holes **and to** one end of the first line and another end of the third line is attached to the other hole **and to** one end of the second line;
2. the third line rotates relative to the first and second lines without tangling the lines relative the holes;
3. the ends of the safety line are attached to the first and second hole attaching means respectively of the first and second rotatable means while the first and second line attaching means are at **another end** of the rotatable means;
4. the length of the safety line is selected to be substantially the length between the holes when the safety lines is connected to the holes.

Moreover in regards to claim 1 Examiner stated that Takeda discloses a device for scaring birds comprising a silhouette of a cat having at least two holes therethrough, a first line (6) having one end rotatably attached to the hole (4) and a second line (6) having one end rotatably attached to the hole (4). Furthermore Examiner pointed out that Fig. 5 stated that the third line 10B of Takeda has one end rotatably attached to one end of the first line (6) and another end rotatably attached to one end of the second line (6) so as to maintain continuity between one end of the first and second lines (6) respectively when the first and second lines become unattached from the holes (4). Furthermore Examiner stated that although Takeda does not show the third line being connected to the previously mentioned "end" of the lines it would have been held that rearranging parts of an invention involves only routine skill in the art.

Agent for Applicant respectfully states that the claims has amended overcome the prior art as Takeda does not show:

1. one end of the third line is attached to one of the holes **and to** one end of the first line and another end of the third line is attached to the other hole **and to** one end of the second line;
2. the third line rotates relative to the first and second lines without tangling the lines relative the holes;
3. the ends of the safety line are attached to the first and second hole attaching means respectively of the first and second rotatable means while the first and second line attaching means are at **another end** of the rotatable means;
4. the length of the safety line is selected to be substantially the length between the holes when the safety lines is connected to the holes.

In particular Figure 5 of Takeda does not show that the safety line 10B of Figure 5 is not connected to the hole **and to** the ends of the first and second lines respectively. At best Takeda may teach that the ends of the safety line 10B are attached to an end of the first and second lines but **not** the holes.

Furthermore Takeda shows that the ends of the first and second lines respectively and the ends of the third or safety line respectively are attached to the **same** end of the rotatable means 5C while Applicant teaches that the ends of the third or safety line are attached to the hole attaching means which are at **one end** of the rotatable means **while** the ends of the first and second lines are attached to first and second line attaching means which are at **another end** of the first and second rotatable means respectively. In other words Applicant teaches that the ends of the safety line are attached to opposite ends of the rotatable means or swivel compared to the first and second end of the first and second lines respectively. This is different from what is shown in Figure 5 of Takeda.

Moreover it is unclear from Figure 5 of Takeda whether the structure 10B is a line or material comprised of nylon or dacron or whether it is a metallic piece which is

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adapted to keep the string 6 in tension. In any event Takeda does not teach the invention as claimed in the amended claims.

Furthermore Takeda does not show that the safety line extends between the holes but rather extends beyond the safety holes.

Moreover Examiner rejected claims 2, 5, 6, 7, 8, 9 and 10 as well as 11-12 and 13-17 as being unpatentable over Takeda in view of Chase, Kilgour and Kaleta.

In this regard Agent for Applicant respectfully states that none of the prior art teaches:

1. one end of the third line is attached to one of the holes and to one end of the first line and another end of the third line is attached to the other hole and to one end of the second line;
2. the third line rotates relative to the first and second lines without tangling the lines relative the holes;
3. the ends of the safety line are attached to the first and second hole attaching means respectively of the first and second rotatable means while the first and second line attaching means are at **another end** of the rotatable means;
4. the length of the safety line is selected to be substantially the length between the holes when the safety lines is connected to the holes.

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Deposit Account

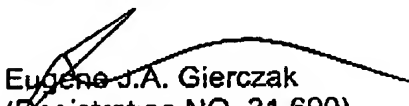
Agent for Applicant hereby authorizes the Commissioner to deduct the fee for a one month extension of time **US\$55.00** from **deposit account 502385**.

Conclusions

Agent for Applicant respectfully states that the application is now in condition for immediate allowance and respectfully solicits same.

Yours faithfully,

Agent for Applicant


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Note New Mailing Address

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CERTIFICATE OF TRANSMISSION

Our file: 56717.0004 (KMB12383-04/ejg)
Invention: Bird Scaring Device
Filing Date: January 2, 2002
Application No.: 10/032,454
Applicant: Ulrich Watermann
Country: United States
Examiner: Susan L. Piascik
Art Unit: 3643
Subject: Response to office action dated April 1, 2003 including
one month extension request prepared by EJAG
(totalling 13 pages including this certificate page)

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